

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH  
BENEFITS FUND, PIRELLI ARMSTRONG  
RETIREE MEDICAL BENEFITS TRUST;  
TEAMSTERS HEALTH & WELFARE FUND  
OF PHILADELPHIA AND VICINITY;  
PHILADELPHIA FEDERATION OF  
TEACHERS HEALTH AND WELFARE  
FUND, and DISTRICT 37 HEALTH AND  
SECURITY FUND,

Plaintiffs,

CIVIL ACTION: 1:05-CV-11148-PBS

v.

FIRST DATABANK, INC., a Missouri  
corporation; and McKESSON  
CORPORATION, a Delaware corporation,

Defendants.

**AMENDED DECLARATION OF THOMAS M. SOBOL IN CONNECTION WITH  
MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AS TO DEFENDANT,  
FIRST DATABANK, INC., ONLY**

I, Thomas M. Sobol depose and state under oath as follows:

**Background**

1. I, Thomas M. Sobol, am a member of the Bar of the Supreme Judicial Court with the Commonwealth of Massachusetts. I am a partner at Hagens Berman Sobol Shapiro, LLP, One Main Street, Cambridge, Massachusetts. I have been appointed by this Court as liaison counsel and co-lead counsel on behalf of a putative nationwide class of drug purchasers in

connection with the claims against the two defendants, First DataBank, Inc., and McKesson Corporation.

**Confidential Nature of Materials**

2. I provide this declaration to be filed under seal in order to set forth confidential information about First DataBank and the analysis performed thereon by plaintiffs' counsel in order to assess in the ability to recover a substantial judgment against McKesson in this case.

3. We understand that First DataBank treats its financial information as confidential and proprietary. In the context of our settlement negotiations FDB has required that we maintain this information as such. Because that information serves as one of the critical aspects of the financial analysis that plaintiff's counsel performed for the settlement, we previously submitted it to the Court under seal after being granted leave.

**FDB Financial Ability to Pay**

4. In the Amended Memorandum in Support of Preliminary Approval, plaintiffs' counsel represent to the Court that FDB has comparatively little ability to pay on a substantial judgment of the type sought in this case. The basis for that conclusion is (i) financial information provided by FDB, (ii) review of documents to assure that FDB is in a corporate entity separate from its parent, Hearst Corporation, and (iii) review of FDB's insurance portfolio in the claims made in this case.

5. We have reviewed the year-end 2005 operating revenue, gross profits and pre-tax income for FDB, along with a summary balance sheet of FDB comparing the year end 2004 to year end 2005. Counsel for FDB has represented to plaintiff's counsel that these documents fairly depict the financial condition of FDB for the year end 2005.

6. As demonstrated in those documents, the pre-tax income of FDB for year end

2005 was \$19,275,797.

7. We also reviewed a statement of FDB's operating revenue, gross profits and pre-tax income for the period ending June 2006. That document demonstrates that in the first six months of 2006, FDB's pre-tax income was \$9,082,474.

8. On the basis of the financial information provided to us by FDB counsel, plaintiffs' counsel have concluded that the pre-tax income of FDB is somewhat less than twenty million dollars per fiscal year.

9. In addition, counsel reviewed insurance binders provided to us by FDB. Based upon that review, FDB's insurers (with one exception) declined coverage as to the claims made in this lawsuit. As to the exception, that insurer raised numerous defenses to the coverage of FDB in connection with a policy in the amount of ten million dollars. FDB has indicated to us that they have not and will not make a claim against their insurers' in connection with this matter.

Subscribed and sworn to under oath this 1<sup>st</sup> day of November, 2006.

Respectfully submitted by:

**/s/ Thomas M. Sobol**

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